

The 13th June, 1986

No. 9/8/86-6-Lab./4413.—In pursuance of the Provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the Workman and the management of M/s Chairman Market Committee, Heli Mandi, Pataudi, District Gurgaon.

THE COURT OF SHRI R.N. SINGAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD
Reference No. 457 of 1985

between

SHRI HOTI LAL, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S CHAIRMAN
MARKET COMMITTEE-HELI MANDI, PATAUDI, DISTRICT GURGAON

Present—

Shri Mahavir Tyagi, for the workman.

Shri O.P. Handa, for the respondent management.

AWARD

This industrial dispute between the workman Shri Hoti Lal and the respondent management of M/s Chairman, Market Committee Heli Mandi, Pataudi, District Gurgaon has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/18-85/32436-41, dated 1st August, 1985 under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are :—

“Whether the termination of services of Shri Hoti Lal was justified and in order ? If not to what relief is he entitled ?”

According to the claim statement, the workman was appointed on 9th March, 1984 and his services were illegally terminated on 31st December, 1984. He has prayed for reinstatement with continuity of service and with full back wages.

This claim has been contested by the management. Objection is taken that the respondent is not a factory. It is contended that he was appointed as Driver on 19th March, 1984 for a period of 89 days. This period was extended upto 30th September, 1984. The workman was again employed on 3rd October, 1984 and his service were terminated on 31st December, 1984 and he was purely on *ad hoc* basis. He has no right to continue in service. It is contended that his termination was quite legal and justified in view of the provisions of Section 2-(oo) of the Industrial Disputes Act, 1947.

The workman has denied these averments in the rejoinder. The reference was contested on the following issue :—

(1) As per reference ?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues are as under :—

Issue No. 1.—The management has relied upon his first appointment letter Ex. M-1. It is noted that the workman is appointed for three months. According to Ex. M-2 the workman joined on 19th March, 1984. According to Ex. M-3 he again applied for appointment on 3rd October, 1984 and according to Ex. M-4 he again joined on 3rd October, 1984. In this way his services were terminated,—vide letter Ex. M-5 on 31st December, 1984. It is contended that the services of the workman were terminated in accordance with terms of contract. Hence it tantamount to retrenchment in view of the amended Section 2(oo) (bb) of the I.D. Act. This contention of the representative of the management has no force as the workman had completed more than 240 days of service from 9th March, 1984 to 31st December, 1984. It is also admitted by MW-1 that other persons have been employed after two months of the termination of the workman. He had completed more than 240 days of service at the time of termination. Hence the provisions of Section 25-G of the I.D. Act, were attracted. The provisions of Section 2(oo)(bb) do not over ride, the provisions of Section 25-F of the I.D. Act. It is contended that termination of the workman was not void if retrenchment compensation was not paid at the time of his termination. It does not invalidate his termination order. In the present case, the termination of the workman was void because he had completed 240 days of service and it cannot be invalidated by paying retrenchment compensation. It has not been argued that the respondent is not an industry. In view of the above discussion I find that mandatory provisions of Section 25-F of the I.D. Act were not complied with before the termination of services of the workman. Hence the order of termination is illegal and unjustified. He is entitled to be reinstated with continuity of service and with full back wages. The award is given accordingly.

Dated the 23rd June, 1986

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

Endst. No. 1224, dated the 7th May, 1986

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act.

R.N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.